

2007 DRAFTING REQUEST**Bill**Received: **10/29/2007**Received By: **dkennedy**Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC 6-9791**By/Representing: **Laura Rose**This file may be shown to any legislator: **NO**Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - medical assistance**

Extra Copies:

Submit via email: **YES**Requester's email: **laura.rose@legis.wisconsin.gov**Carbon copy (CC:) to: **robin.ryan@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

ICF-MR short stay exceptions

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dkennedy 10/29/2007	bkraft 10/30/2007		_____			
/P1			pgreensl 10/30/2007	_____	cduerst 10/30/2007		
/1	dkennedy 11/20/2007	bkraft 11/20/2007	nnatzke 11/26/2007	_____	sbasford 11/26/2007	mbarman 11/27/2007	

LRB-3366

11/27/2007 09:02:14 AM

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FE Sent For: *N/A*

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		1 bjk 11/20 nwn 11/24		nwn/rs 11/26			

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ICF-MR Restructuring: Short Term Stay Exceptions

Specific Statutory Change Requested

Modify s. 46.279(5) to add post-hospitalization rehabilitation as an exception to the prohibition for placement in facilities without a court determination that the facility is the most integrated setting.

Administrative or Substantive Problem with the Current Statutes

There are only two exceptions in s. 46.279 regarding admission of persons with developmental disabilities to ICFs/MR and Nursing Facilities that do not require a court to find that the facility is the most integrated setting prior to admission. One is for emergency placement and the other is for respite care when a ward lives with the guardian. Legislation creating the ICF-MR Restructuring Initiative (2003 Wisconsin Act 33) neglected to include an exception for 30 day post-hospitalization rehabilitation stays in a Nursing Facility under Nursing Facility fee for service requirements, which is an entitlement for all other Medicaid eligibles.

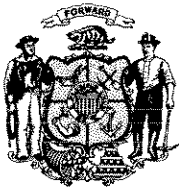
Need for the Change

The change will correct an oversight in the authorizing legislation for the ICF-MR Restructuring Initiative, and conform the statutes to current Department policy and administrative practice.

Estimate of Fiscal Effect

None.

DHFS Contact: Michael Linak (608) 266-1140



WEDNESDAY a.m. ←
State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3366/8 PI

DAK:.....

bjk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION ✓

SA ✓
x-ref ✓

gen. cat.

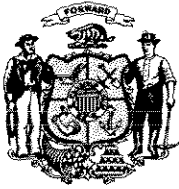
- 1 **AN ACT** ...; **relating to:** creating an exception to the prohibition on protective
2 placement or continued protective placement of an individual in a nursing
3 facility (suggested as remedial legislation by the Department of Health and
4 Family Services). ✓

Analysis by the Legislative Reference Bureau

Under current law, no one may protectively place or continue protective placement of an individual with a developmental disability in an intermediate care facility for the mentally retarded (ICFMR) and no ICFMR may admit or continue service for the individual unless a court finds, after considering a county plan for the individual's care, that protective placement in the ICFMR is the most integrated setting appropriate to the needs of the individual or that the county of residence would not reasonably be able to provide community-based care for the individual. ✓ If the Department of Health and Family Services (DHFS) or an entity determines from a screening that an individual requires active treatment for developmental disability, the individual may not be protectively placed or have protective placement continued in a nursing facility unless DHFS or the entity determines that the individual's needs cannot fully be met in an ICFMR or under a county plan, or that the county of residence would not reasonably be able to provide community-based care for the individual. ✓ There are two exceptions to these prohibitions: emergency protective placements and temporary protective placements. ✓

This bill creates a third exception to the prohibitions on protective placement or continued protective placement of an individual with developmental disability in

(END) ✓



→ (SOON - 2u edit 11/20)

State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3366/21

DAK:bjk:pg

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2007 Bill

Insert

SA ✓

regen. cat

- 1 AN ACT *to amend* 46.279 (5) of the statutes; **relating to:** creating an exception
- 2 to the prohibition on protective placement or continued protective placement
- 3 of an individual in a nursing facility (suggested as remedial legislation by the
- 4 Department of Health and Family Services).

Analysis by the Legislative Reference Bureau

Under current law, no one may protectively place or continue protective placement of an individual with a developmental disability in an intermediate care facility for the mentally retarded (ICFMR) and no ICFMR may admit or continue service for the individual unless a court finds, after considering a county plan for the individual's care, that protective placement in the ICFMR is the most integrated setting appropriate to the needs of the individual or that the county of residence would not reasonably be able to provide community-based care for the individual. If the Department of Health and Family Services (DHFS) or an entity determines from a screening that an individual requires active treatment for developmental disability, the individual may not be protectively placed or have protective placement continued in a nursing facility unless DHFS or the entity determines that the individual's needs cannot fully be met in an ICFMR or under a county plan, or that the county of residence would not reasonably be able to provide community-based care for the individual. There are two exceptions to these prohibitions: emergency protective placements and temporary protective placements.

This bill creates a third exception to the prohibitions on protective placement or continued protective placement of an individual with developmental disability in

a nursing facility. This exception is the instance in which an individual with developmental disability enters a nursing facility immediately after release from a hospital, for a period not to exceed 30 days.

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Health and Family Services and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

- 1 **SECTION 1.** 46.279 (5) of the statutes is amended to read:
- 2 46.279 (5) EXCEPTIONS. Subsections (2) and (3) do not apply to entrance to a
- 3 facility under s. 49.45 (6c) (e) 1., to an emergency protective placement under s.
- 4 55.135, or to a temporary protective placement under s. 55.135 (5) or 55.055 (5).

5

(END)

INSERT 2-4

INSERT 2-4

NOTE

CS

LRB 3366/21 This bill creates an additional exception to the requirement that an admission to an intermediate care facility for the mentally retarded (ICF-MR) or a nursing home be found to be the most integrated setting for the individual being admitted. Under this bill, this finding need not be made if the person being admitted has a developmental disability and is being admitted to a nursing facility immediately after release from a hospital, for a period not to exceed 30 days. ✓

end Insert 2-4

Duerst, Christina

From: Rose, Laura
Sent: Monday, November 26, 2007 2:48 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-3366/1 Topic: ICF-MR short stay exceptions

Please Jacket LRB 07-3366/1 for the ASSEMBLY.